

Statement of Case

Birnbeck Holdings Ltd

North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020

30 May 2023

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1. Introduction & Background

- 1.1 This is the Statement of Case of Birnbeck Holdings Limited ('BHL') the owner of the title ST212047 ('the Order Land') which is land comprising plot 1 of the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 ('the Order').
- 1.2 BHL purchased this land in January 2021 from the former owner CNM Estates (Birnbeck) Limited ('CNMB') which had owned the land since December 2014. CNMB submitted an objection to the Order on 30 October 2020 which set out their grounds of objection to the Order. By letter dated 17 April 2023, the Department of Culture, Media and Sport confirmed that it was content for CNMB's objection to form the basis of BHL's ongoing objection to the Order.
- 1.3 This Statement of Case provides further information to support the key grounds of objection. These grounds of objection are:
 - a) Firstly, that the Order Land take is excessive and cannot be justified having regard to the relevant legislation and the stated purpose of the Order.
 - b) Secondly, that the Order is not justified because the Acquiring Authority has not demonstrated that funding and other resources will be available to repair the Pier and carry out necessary long term maintenance and management,
 - c) Thirdly, that the Order is not justified because the Order will impede or at least delay the prospect of redevelopment projects coming forward which will optimise the regeneration of the local area.
 - d) Fourthly, that there have been inadequate attempts by the Acquiring Authority to acquire the land required by negotiation.

Site and Ownership

- 1.4 BHL is the owner of the title ST212047 and as set out above, purchased the land in January 2021. Prior to this purchase, the property was owned by CNMB, who had owned the property since 2014. BHL and CNMB are separate companies but have a director and shareholder in common.
- 1.5 The original title for the pier, held by Weston-Super-Mare Pier Company dates back to the original Acts to set up and construct the pier and conveyances in 1864 and 1897, and from the historic plans available does not appear to include all of the land within the current title ST212047, or plot 1 of the Order. Appendix 1 is an extract of the 1864 conveyance showing the extent of land ownership at that time.
- 1.6 It appears from an initial review of Land Registry records that land has been transferred in and out of the pier title, held by Weston-Super-Mare Pier Company, throughout the history of the Pier. For example, we understand that further land was transferred into the title in 1938 and the title for the RNLI lifeboat station and slipway was transferred out of the title in 1998.
- 1.7 The current title ST212047 appears to comprise a number of separate smaller titles which have been brought together and combined over recent years. For example, we attach at Appendix 2 what appears to be the first registration of title ST212047 in 2002, which appears to show a small area including The Pier Master's Cottage and surrounding land north of the pier only and does not include the pier or any land south of the pier.
- 1.8 The Royal Pier Hotel site identified edged red on the land registry title plan AV136251 at Appendix 3 is owned by Birnbeck Investments Ltd and a redevelopment scheme has been prepared to redevelop

this site which has been unoccupied since it was fire damaged and subsequently demolished for health and safety reasons. In order to maximise the redevelopment potential of the Royal Pier Hotel, it is intended to use a portion of the Order Land to provide parking for the proposed development on the Royal Pier Hotel site. That is, the planning application No:21/P/2682/FUL includes both the Royal Pier Hotel site and a proportion of the Order Land. The application is for 90 residential units and other development including retail, café, restaurant and drinking establishment uses providing significant economic benefits to Weston-Super-Mare, both during construction and following completion and occupation. However, in order to secure planning permission, planning policy requires provision of car parking spaces. Any constraint on the Order Land will significantly compromise the options for redevelopment of the Royal Pier Hotel Site.

- 1.9 Previous negotiations with the RNLI had made provision for these car parking spaces to be delivered utilising the land at Birnbeck Road, within the existing title. However, the Order Land includes land required to deliver some or all of these parking spaces. The uncertainty over provision of the necessary car parking spaces has ensured that this planning application and subsequent development cannot be brought forward until this matter is resolved.

Acquisition by Negotiation

- 1.10 BHL and the immediately preceding owner CNMB had previously entered into negotiations with RNLI in respect of the sale of the Pier and island, and future ownership, use and management of surrounding land within the title ST212047, and had considered that terms had been agreed which met the objectives of both parties by April 2021. The Acquiring Authority took over these negotiations on a Without Prejudice basis as they stated that they could move faster than RNLI in the acquisition, and revised Heads of Terms were agreed in July 2021, with the matter being passed to lawyers for preparation of contracts. The Acquiring Authority withdrew from this agreement in November 2022 and has refused to enter into further negotiations by agreement since that date.

2. The extent of the Order Land

- 2.1 The Acquiring Authority made the Order under s.47(1) of The Planning (Listed Building & Conservation Areas Act 1990 ('the 1990 Act'). Under s.47 of the 1990 Act, the acquiring authority may include within the Order Land the listed building together with any relevant land. The Acquiring Authority sets out at para 2.2 of their Statement of Reasons (SoR) that s.47(7) of the 1990 Act defines 'relevant land' as:

'in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management'.

- 2.2 At section 7 of the Historic England guidance 'Stopping the Rot A Guide to Enforcement Action to Save Historic Buildings' reissued in January 2023, Historic England set out guidance on the use of s.47 of the 1990 Act.
- 2.3 At section 7.8 on page 43, the guidance states that the Order Land in a listed building CPO can include land which it is necessary to acquire for the building's preservation and provides further details which appear to have been copied into para 2.2 of the Acquiring Authority's SoR. However, it goes on to say that the amount of land could be crucial in determining the economic viability of the building, depending on the building's location, scope for reuse and the repair and refurbishment costs. It recognises in the last paragraph on page 43 that whilst determining the Order Land may be simple

for eg a street property in an urban area, complexities may arise where the listed building forms part of a large landholding with development potential.

- 2.4 On page 44 it acknowledges the potential requirement to preserve the historic integrity of a site which could be lost if ownership or management of the listed and curtilage buildings or structures is divided. It goes on to confirm that it is important that the acquiring authority carefully considers the extent of the Order Land and confirms that it is open to the Secretary of State to reduce the amount of land when confirming the Order.
- 2.5 At para 2.3 of the SoR, the Acquiring Authority sets out that s 1(5) of the 1990 Act provides that buildings and other structures within the curtilage of a listed building that pre-date July 1948 are to be considered as forming part of the listed building. It goes on to assert that the curtilage of the Grade II* listed Pier is defined by the title boundary of Land Registry title ST3062SE and describes a number of buildings and structures that pre-date 1948, including the Grade II listed North Jetty, Toll House Lodge, original lifeboat station, Entrance Gates, Turnstiles and Clock Tower that they consider to be part of the listed Pier. The Acquiring Authority states that these, together with other unlisted buildings and structures within the curtilage of the Grade II* listed Pier are included within the Order as part of the listed Pier, and at section 4 sets out further details of these buildings and structures.
- 2.6 At paras 2.3 and 5.24 of the SoR, the Acquiring Authority assert that the curtilage of the Pier is defined by the title boundary of Land Registry Title ST3062SE. Appendix E of the SoR is titled 'Land Registry Plan OS Map ST3062SE for Identification Purposes'. This appears to be the HM Land Registry Official Copy of the title plan for Title Number ST212047, which is OS map reference ST3062SE. The title number is referenced at the top of this plan. The assertion at paras 2.3 and 5.24 of the SoR therefore amounts to an assertion that the boundary of Land Registry title ST212047 forms the curtilage of the listed pier.
- 2.7 At para 2.4 of the SoR, however, the Acquiring Authority contradicts itself, and states that the title for the Pier (by which we assume they mean land registry title ST212047) comprises 'other areas of land' including the majority of Birnbeck Island, cliffs, accesses, foreshore and the adjoining car park, and they assert that these have historically been part of the Pier holding. They state that these areas will continue to be important to provide access to the CPO Site and for the proper management of the CPO Site in future and are therefore included within the Order as 'relevant land' as identified in s.47(7) of the 1990.
- 2.8 At para 1.3 of the SoR the 'CPO Site' is defined as the Pier and the adjoining land included within the Order.
- 2.9 At para 5.24 the Acquiring Authority asserts that the land holding within title ST3062SE (land registry ST212047) was established on 17 July 1862 by the Weston-super-Mare Pier Act 1862 and further extended by the Weston-super-Mare (Extension) Act 1864 ('the Pier Acts'). It states that the holding includes the Grade II* listed pier, other Grade II listed buildings and structures, other unlisted built structures, a car park as well as areas of cliff, accesses and foreshore that have historically always formed part of the holding.
- 2.10 The Acquiring Authority provide no evidence in support of the assertion that the land included within title ST212047 is the same as was established pursuant to the Pier Acts. Nor do they explain why all the relevant land included within the Order Land forms an intrinsic part of the site's character, as asserted at para 5.25 of the SoR.
- 2.11 Para 4.4-4.8 set out the listed buildings within the CPO Site. Para 4.10 sets out unlisted buildings and structures within the CPO Site and para 4.11 sets out other elements within the CPO site. It appears that the buildings identified within 4.4-4.8 and 4.10 are consistent with those which the Acquiring

Authority states are part of the listed Pier and those within para 4.11 are those set out at para 2.4 as other land within the title.

Objector's response to justification for land take.

- 2.12 The Acquiring Authority's Statement of Reasons does not provide a clear, logical and evidenced justification for the inclusion of the full extent of the Order Land. It does not differentiate between the curtilage of the listed building (the Pier), what it considers to be the land which was historically included within the Pier title, and 'relevant land' as defined within the 1990 Act. It does not explain how the Order meets the definition for relevant land set out within s47 of the 1990 Act, set out above at para 2.1 for ease, nor the guidance within para 7.8 of the Historic England Guidance.
- 2.13 The Acquiring Authority has provided no evidence to support its assertion that the curtilage of the Grade II* listed Pier is defined by the title boundary of ST212047. The description of the structures and buildings within the SoR, and in particular those at para 4.11, do not appear to support this. Of the 'other elements within the CPO Site' identified at para 4.11, only the building identified as the Old Pier Master's Cottage appears to have any obvious link to the Pier, with no evidence provided to support the inclusion of the outbuildings used for storage, the building known as Pier View, the car park or the causeway.
- 2.14 Listed Building Consent was obtained in 2016 and then further in 2020 for the partial demolition of the North Jetty.
- 2.15 The Acquiring Authority has provided no evidence that the other land or buildings (that land which is not pre 1948 structures or buildings forming part of the listed Pier) contained within title ST212047 are historically part of the Pier holding. Neither the 1862 nor the 1864 Act include a plan showing the land to be acquired, albeit the 1862 Act refers (s. 16) to plans being deposited with the Clerk of the Peace for the County of Somerset. The Acquiring Authority has not provided these plans to substantiate its assertion that title ST212047 has remained the same since the inception of the Pier.
- 2.16 The title history (so far as BHL presently understands it, and as set out at para 1.4-1.7 above and at Appendix 1 & 2) does not support this assertion, and the objector considers it incorrect. The inclusion of all the land cannot therefore be shown to meet the requirement of page 44 of the HE Guidance (para 2.4 above) to preserve the historic integrity of the site and ensure ownership of listed buildings and structures are not divided.
- 2.17 The Acquiring Authority has provided no evidence to support its assertion that the 'other land' identified within para 2.4 of the SoR will be necessary for access to the Pier and necessary for the proper management of the CPO Site in future. Part of the Foreshore identified within the Order Land is allocated within the current local plan to deliver 50 residential units. Fundamentally, the Acquiring Authority has failed to properly distinguish between land that is curtilage and land which is relevant land, and in respect of relevant land why the compulsory acquisition of that land is justified.
- 2.18 The Courts have consistently confirmed that legislation authorising the expropriation of private property is to be strictly construed. In *Sainsbury's Supermarkets Ltd v Wolverhampton City Council* [2010], the Supreme Court said that:

"9. Compulsory acquisition by public authorities for public purposes has always been in this country entirely a creature of statute: Rugby Joint Water Board v Shaw-Fox [1973] AC 202, 214. The courts have been astute to impose a strict construction on statutes expropriating private property, and to ensure that rights of compulsory acquisition granted for a specified purpose may not be used for a different or collateral purpose: see Taggart, "Expropriation, Public Purpose and the Constitution", in The Golden

Metwand and the Crooked Cord: Essays on Public Law in Honour of Sir William Wade, (1998) ed Forsyth & Hare, p 91.

10. In *Prest v Secretary of State for Wales* (1982) 81 LGR 193, 198 Lord Denning MR said:

"I regard it as a principle of our constitutional law that no citizen is to be deprived of his land by any public authority against his will, unless it is expressly authorised by Parliament and the public interest decisively so demands ..."

and *Watkins LJ* said, at pp 211–212:

"The taking of a person's land against his will is a serious invasion of his proprietary rights. The use of statutory authority for the destruction of those rights requires to be most carefully scrutinised. The courts must be vigilant to see to it that that authority is not abused. It must not be used unless it is clear that the Secretary of State has allowed those rights to be violated by a decision based upon the right legal principles, adequate evidence and proper consideration of the factor which sways his mind into confirmation of the order sought."

- 2.19 It is the proper management of the Pier itself that is in issue when considering the definition of relevant land in s. 47 of the 1990 Act. A strict construction of relevant land within s. 47 does not allow land to be acquired for different purposes, even purposes which are also in the public interest such as the provision of the RNLI's lifesaving facilities at Birnbeck. S. 47 is a provision that is directed to ensuring the preservation of a listed building, and it is land that is required to preserve the listed building that is permitted to be acquired as relevant land, not land that is required to serve some other purpose.
- 2.20 In any event, the Acquiring Authority have failed to justify why all of the Order Land would be required even if account could be taken of car parking needed for the operation of the RNLI's proposed operations. A transfer of the lifeboat station purports to grant rights of access to RNLI over the land at Birnbeck Road, which would allow it to access the Pier to carry out its operational lifeboat station role. The objector is willing to provide reasonable further rights of access to the RNLI on reasonable terms should these be required to allow modern operational requirements.
- 2.21 The entirety of the land on Birnbeck Road identified as car parking land does not appear to have been required previously by RNLI to operate the lifeboat station on the island. When the objector was in negotiation with the RNLI in 2021 the RNLI stated that they required no more than 20 car parking spaces adjacent to the Pier entrance in order to adequately operate. They did not seek any additional access rights or additional land for parking.
- 2.22 There is no evidence that additional car parking spaces are required for the proper management of the listed Pier in future. Para 5.29 sets out the RNLI plans for the Pier, and confirms the RNLI is committed to its restoration and long term preservation. Further detail is provided in section 6 of the Statement of Reasons but the Acquiring Authority does not identify why additional land and car parking is required for the proper management of the listed Pier in future.
- 2.23 The above points also apply to the Acquiring Authority's proposal to facilitate public access to the Pier. The provision of public access does not fall within the definition of relevant land under s. 47 of the 1990 Act. The objector maintains that acquiring land for such collateral purposes is not authorised by s. 47.
- 2.24 Even if it was, which is denied, the Acquiring Authority has failed to justify why all of the Order Land is required and how providing public access will enable the proper management of the Pier or its preservation. The SoR does not provide any information on the RNLI plans for public access and

income production to fund annual maintenance costs will be delivered. The SoR does not set out what development or uses of the land will produce this income.

- 2.25 The Acquiring Authority has failed to justify that all of the Order Land is able to be acquired by the CPO. It has not shown that the public interest in preserving the Pier, which is the purpose of the powers provided by s. 47, require the acquisition of the whole of the Order Land. The objector maintains that the CPO should not be confirmed for these reasons. At the least, the extent of the Order Land must be reduced.

3. Funding & Other Resource Availability

- 3.1 At para 6.2 the Acquiring Authority states that it proposes to use the Order to acquire the CPO Site to allow prompt transfer of the CPO Site to RNLI following confirmation of the Order and vesting of the CPO Site in the Acquiring Authority. It does not provide any further details of the contractual arrangements between the Acquiring Authority and RNLI to transfer the land and secure the repair and long term maintenance of the Pier.
- 3.2 At para 5.29 of the SoR the Acquiring Authority states that RNLI has clear intentions for the Pier and is committed to its restoration and long term preservation. It states that the RNLI has a real need for the restoration of the Pier in order to secure access to its former lifeboat station and the provision of a lifeboat facility on Birnbeck Island.
- 3.3 The Acquiring Authority goes on to state that it believes the Pier is capable of being restored and that RNLI will be able to secure the necessary funding and expertise to bring about the restoration of the Pier and establish a sustainable long term use for the Pier structure. In addition, it states that RNLI intends to provide visitor facilities on Birnbeck Island to facilitate public access to the restored Pier and to provide an income stream to support the cost of the future maintenance of the Pier.
- 3.4 Para 6.3 onwards of the SoR contains a Statement from RNLI. This sets out the history of the lifeboat station on Birnbeck Island, and the current RNLI operation basis in the area as well as the current need for Weston Lifeboat Station. From para 6.26 onwards, RNLI sets out the work it has carried out to date in respect of feasibility of repairing the Pier, concept designs for the Lifeboat station and associated ramp, costings work in relation to the repair and construction work required on the pier and island, and various consultations and funding conversations with statutory authorities, funding bodies, Heritage England and community representatives. Appendices M & N show concept plans for the lifeboat station and associated ramp.
- 3.5 At para 6.28 the RNLI confirms that it considers that a return to the Pier can be achieved for the equivalent or lower cost than its alternative option in the area but do not identify this cost. They also estimate that the Pier will cost around £100,000 per annum to maintain and that this cost can be met by Pier revenue and income earned from the site. No further detail is provided on this.
- 3.6 At para 6.35 the Acquiring Authority states that the scheme will only be viable due to the potential for RNLI to secure funding from Historic England and National Lottery Heritage Fund.
- 3.7 Para 14 of the "Guidance on Compulsory purchase process" ('CPO Guidance') sets out the information the confirming authority will require on sources of funding available for both acquiring the land and implementing the scheme. Where the scheme is not financially viable, the information provided should include the degree to which other bodies have agreed to make financial contributions or underwrite the scheme and the basis on which the contributions or underwriting is to be made.
- 3.8 The SoR sets out the commitments made by RNLI at para 5.17 to the core funding and the funds for acquisition of all relevant interests and confirms that the RNLI is confident of its ability to raise the

remaining funds necessary. At para 6.26 the RNLI confirms it has had conversations with the National Lottery Heritage Fund but does not appear to confirm that these funds have been secured or provide any information on the conditions or terms of these funds being secured. We note the press reports in autumn 2022 reporting c£2.8million of National Heritage Memorial Fund and National Lottery Heritage Fund secured by RNLI for the project but no further detail is available.

Objector's response to Funding & Other resource availability

- 3.9 The Acquiring Authority has not met the requirements within para 14 of the CPO Guidance on demonstrating that funding and other resources are available to both acquire the land required and implement the scheme.
- 3.10 Whilst the Acquiring Authority has provided some information in the SoR on how the proposed works could be funded and delivered by the RNLI if the RNLI can secure funding and chooses to proceed with the works, it has provided no evidence of the likely total costs, its agreement with the RNLI and how it can be certain that the RNLI will proceed with the works. If this funding cannot be secured, or proves to be insufficient, then the result will be that private land will have been taken without the purpose for that interference with private rights resulting in any change to the position of the listed building. It is for the Acquiring Authority to demonstrate not only that funding is available, but that the level of funding will be sufficient and that steps will actually be taken to preserve the Pier.

4. Order purpose and justification

- 4.1 At para 5.12 the Acquiring Authority sets out its purpose in seeking to acquire the Pier and associated relevant land included within the Order. There are 6 bullet points within the paragraph
- Secure the long term protection and preservation of the Pier
 - Secure the appropriate repair and restoration of the Pier
 - Facilitate the provision for the Pier of a financially sustainable future use through the back to back transfer of ownership to the RNLI
 - Facilitate public access to the Pier
 - Create new opportunities for residents and visitors alike to learn about the history of the Pier
 - Enable the Pier to act as catalyst for the longer term economic and community regeneration to this part of Weston town centre, including opportunities for job creation, training and volunteering.
- 4.2 The Acquiring Authority then sets out at para 5.13 onwards the compelling case in the public interest. The compelling case in the public interest is one of the key requirements for confirmation of the Order set out in the CPO Guidance at para 2.
- 4.3 The Acquiring Authority's compelling case in the public interest is based on the public interest in saving this nationally important Grade II* listed pier and associated Grade II listed buildings and other structures of architectural and historical interest. In addition (para 5.20 and 5.21) the SoR sets out that a restored and reopened Pier will significantly contribute to the regeneration of the town centre and surrounding area. They consider that more residents and visitors will generate increased footfall to this part of the town centre.

- 4.4 Finally, they assert (para 5.23) that the RNLI's proposals for the Pier are supported by compelling public safety reasons for the repair and re-use of the Pier. They state that these are significant and overwhelming public safety grounds for interfering with the Owner's private legal rights to allow for the restoration of the Pier as a safe and functioning means of access to the RNLI's facilities on Birnbeck Island.
- 4.5 Section 8 is titled 'Detailed Justification for the Order, and para 8.1 states that Preservation of the Pier is the Primary Justification for the Order. The Acquiring Authority considers the arrangement with the RNLI provides a clear way forward for the repair, preservation and enhancement of the Pier.

Objector's response to Order purpose & Justification

- 4.6 When setting out the compelling case in the public interest for the Order, the Acquiring Authority states three main reasons. The primary reason is the need to retain the Grade II* listed Pier, with the secondary reason being the benefits to the economic regeneration of the town centre, and the third being the significant public safety benefits of the new RNLI station.
- 4.7 Section 47 of the 1990 Act provides for the Secretary of State to authorise compulsory acquisition of a listed building where it appears to the Secretary of State that reasonable steps are not being taken for properly preserving the building. The Acquiring Authority's purpose as set out in para 5.12 exceed the purpose of the 1990 Act. Only bullet points 1, 2 and perhaps 3 appear to fall into the s. 47 1990 Act provisions.
- 4.8 The Objector does not dispute the public interest in securing the retention and repair of the Pier. As set out in the SoR the condition of the Pier had deteriorated long before the objector's ownership, with the Pier being closed to the Public in 1994 due to its hazardous condition, with the decline in its condition being accelerated thereafter (SoR 3.11). Works to repair the Pier will be both substantial and expensive. It was to enable the repair of the Pier that attempts were made to sell the Pier to the RNLI on reasonable terms.
- 4.9 However, no analysis or assessment is provided in respect of how the repair of the Pier will provide for benefits to the economic regeneration of the town centre or the surrounding area either directly or as a catalyst. There is no evidence that the proposed scheme will benefit the economic regeneration of the town centre or surrounding area (bullet point 6).
- 4.10 In fact, as set out in para 1.8 above, the uncertainty created by the Order has contributed to delays in bringing forward the development of the Royal Pier Hotel site, which would deliver real and tangible benefits to the town centre. In addition, economic benefits to the surrounding area are not part of the purpose or tests within the 1990 Act to justify compulsory purchase. In this regard, and, for the reasons set out above, the Acquiring Authority has not explained within the SoR why all of the Order Land is required to deliver its purpose as set out at para 5.12.
- 4.11 The statements provided by the RNLI at section 6 of the SoR and Appendices M & N which show concept designs for a ramp/slipway and lifeboat station facility provide some evidence on how the RNLI will be able to provide their life saving purposes from Birnbeck Island following repair of the Pier (as part of bullet point 3), but do not demonstrate how bullet points 1,2,4,5 and 6 will be delivered.
- 4.12 Whilst the objector does not dispute the public safety benefits to be obtained by a new lifeboat station on Birnbeck Island and was working with the RNLI to achieve this in 2021 prior to the involvement of the Acquiring Authority in negotiations, this again is outside the purpose or tests within the 1990 Act. These matters are relevant only to whether or not funding can be obtained to secure the preservation of the Pier (that funding so far as the objector understands is to facilitate these lifesaving functions).

- 4.13 Neither the Acquiring Authority's purpose nor its justification for the Order support the inclusion of all of the Order Land. There is no evidence provided within the SoR supporting the entirety of the Order Land.

5. Adequate Negotiations

- 5.1 The Acquiring Authority states at para 5.11 that on 15 July 2020 the Acquiring Authority wrote to the Owner offering to enter into an agreement to purchase the Pier and to cover the Owner's reasonable costs. The Acquiring Authority states that there has been no formal response from the Owner.
- 5.2 The Acquiring Authority further states at para 8.2 that it has taken all steps with interested parties to seek to acquire the necessary interests in land by agreement including negotiation of headline terms, agreements, undertakings, transfers and any new rights required.

Objector's response to adequate negotiations

- 5.3 As set out in para 1.10 above BHL and the immediately preceding owner CNMB previously entered into negotiations with RNLI in respect of the sale of the Pier and island, and future ownership, use and management of surrounding land within the title ST212047, and had considered that terms had been agreed which met the objectives of both parties by April 2021. This included an agreement which secured the car parking spaces required for the proposed redevelopment of the Royal Pier Hotel site as well as the operational requirements of RNLI.
- 5.4 The Acquiring Authority took over these negotiations on a Without Prejudice basis and Heads of Terms were agreed in July 2021, with the matter being passed to lawyers for preparation of contracts. The Acquiring Authority withdrew from this agreement in November 2022 and has refused to enter into further negotiations by agreement since that date.
- 5.5 The Acquiring Authority has not made any offer to the objector to purchase the Order Land in its entirety despite pursuing the Order to purchase the Order Land in its entirety.
- 5.6 Para 2 of the CPO Guidance states that the confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Para 17 sets out the benefits of undertaking negotiations in parallel with making the compulsory purchase order. It confirms that Acquiring Authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question.
- 5.7 The Acquiring Authority has not met the requirements of para 2 or para 17 of the Guidance in respect of evidencing meaningful attempts at negotiation.

6. Conclusion

- 6.1 The Acquiring Authority has not explained or evidenced in its SoR the need for all of the Order Land, having regard to the provisions of s.47 (7) of the 1990 Act and the stated purpose of the Order.
- 6.2 The Acquiring Authority has not met the requirements of the CPO Guidance in respect of providing certainty that the purpose of the Order – the repair and maintenance of the Pier – will be delivered. There is no certainty as to what the Acquiring Authority will do with the Order Land if the Order is confirmed, and there is no certainty on funding to carry out any proposed works.

- 6.3 The Order as made is not justified by the Acquiring Authority within its SoR. The Order has caused and will continue to cause delays to projects which would benefit the economic wellbeing of the town centre and surrounding area. There is no evidence provided that the Scheme as set out in the Order will produce economic benefits to the town centre and surrounding area, and the uncertainty caused by the Order is delaying projects which will benefit the economic wellbeing of the town centre.

Appendix I

These are the notes referred to on the following official copy

Title Number ST212047

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



Signed Sealed and Delivered by the within named
John Hugh Matham Esq. Clerk of the
Peace of

Wm. Phillips
Attest
A. M. L. Esq.

Signed sealed and delivered by the within named Charles Ranken Esq.
in the presence of

R. M. ...
Esq.

Dated the 28th day of October 1864

John H. W. P. ...
Esquire

The Within signed Matham
Esquire

Grant and Conveyance
of land and hereditaments situate in
the Parish of ...
containing ...
to ...



Appendix II



Historical copy of register of title

Title number ST212047

Edition date 09.12.2002

- This copy shows the entries in the register of title on 9 December 2002.
- This edition was last updated on 9 December 2002 at 13:30:59.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- For information about the register of title, see www.gov.uk/land-registry.
- This title is dealt with by HM Land Registry Durham Office.

A: Property register

This register describes the land and estate comprised in the title.

NORTH SOMERSET

- 1 (09.12.2002) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being The Pier Masters Cottage, Weston-Super-Mare.
- 2 (09.12.2002) The land has the benefit of the rights granted by a Transfer of the land in this title dated 30 September 2002 made between (1) Weston-Super-Mare Pier Company and (2) Sidney Richard Lay and Spencer Lloyd Lay.

NOTE:-Copy in Certificate.

- 3 (09.12.2002) The Transfer dated 30 September 2002 referred to above contains an option to grant a Lease of The Toll Booth which comprises part of the land in this title, in favour of Sidney Richard Lay and Spencer Lloyd Lay, subject to the conditions contained therein.

B: Proprietorship register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (09.12.2002) PROPRIETOR: SIDNEY RICHARD LAY and SPENCER LLOYD LAY of The Lay Partnership, Stanley House, 65 Victoria Road, Swindon, Wiltshire SN1 3BB.
- 2 (09.12.2002) The price stated to have been paid on 30 September 2002 was £58,500.

B: Proprietorship register continued

3 (09.12.2002) RESTRICTION: No disposition by a sole proprietor of the land (not being a trust corporation) under which capital money arises is to be registered except under an order of the registrar or of the Court.

End of register

Historical

Historical

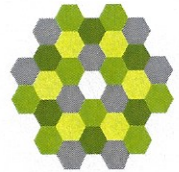
Historical

Historical

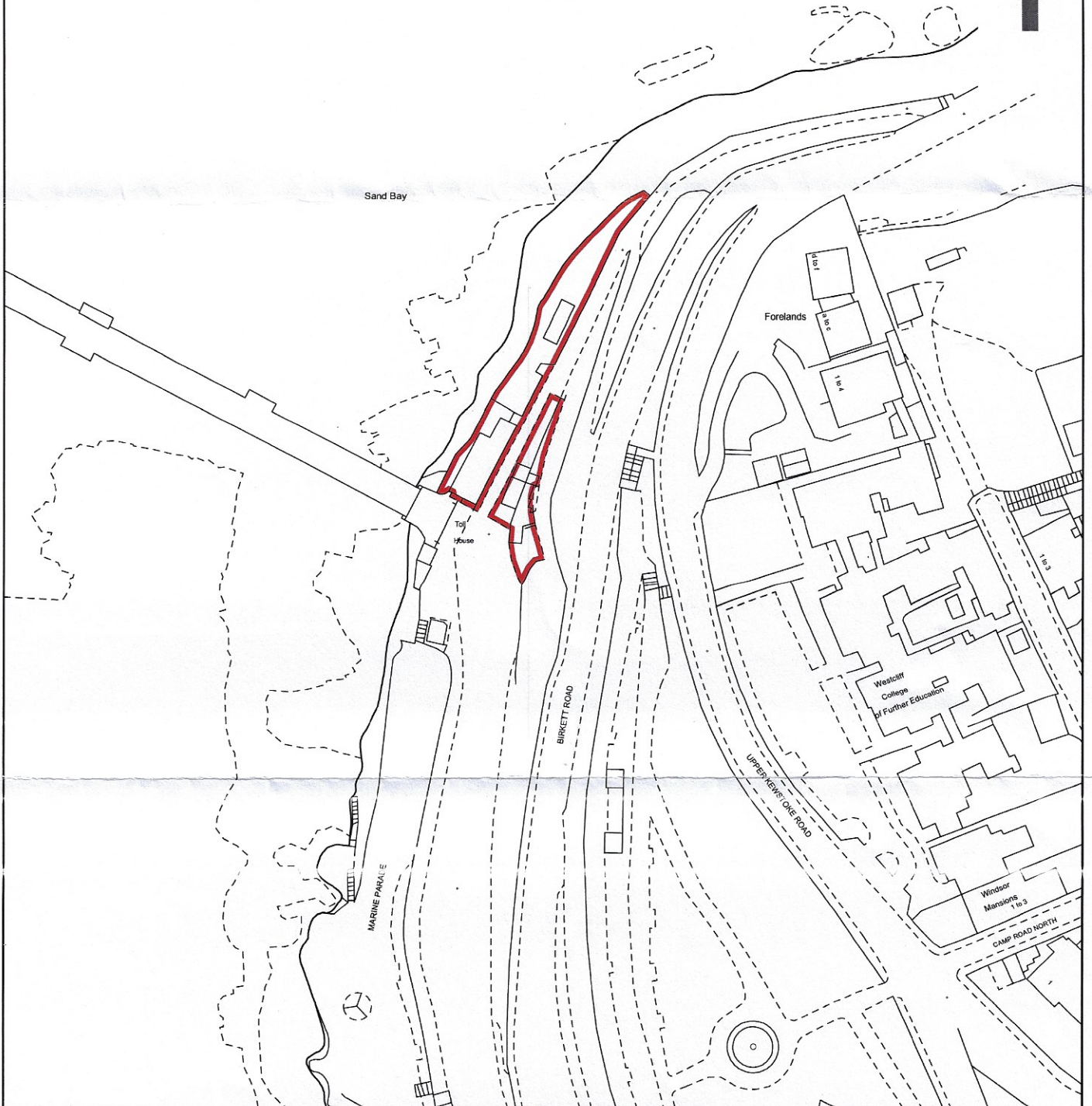
Historical

HM Land Registry Historical copy of title plan

Title number **ST212047**
Ordnance Survey map reference **ST3062SE**
Scale **1:1250**
Administrative area **North Somerset**



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This copy shows the state of this title plan as it existed on 9 December 2002. This edition was last updated on 9 December 2002 at 13:30:59.

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Plymouth Office.

Appendix III

